

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE**

**Call to Order:** By **CHAIRMAN DONALD L. HEDGES**, on March 1, 2001 at 3:00 P.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Donald L. Hedges, Chairman (R)  
Rep. Linda Holden, Vice Chairman (R)  
Rep. Ralph Lenhart, Vice Chairman (D)  
Rep. Darrel Adams (R)  
Rep. Norma Bixby (D)  
Rep. Gilda Clancy (R)  
Rep. Rick Dale (R)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Christopher Harris (D)  
Rep. Verdell Jackson (R)  
Rep. Jim Keane (D)  
Rep. Larry Lehman (R)  
Rep. Holly Raser (D)  
Rep. Clarice Schrumpf (R)  
Rep. Frank Smith (D)  
Rep. Butch Waddill (R)  
Rep. Karl Waitschies (R)  
Rep. Merlin Wolery (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Krista Lee Evans, Legislative Branch  
Robyn Lund, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 55, 2/23/2001; SB 115,  
2/23/2001; SB 143, 2/23/2001;  
SB 165, 2/23/2001

**HEARING ON SB 115**

**Sponsor:** SENATOR RIC HOLDEN, SD 1

**Proponents:** Lorna Karn, Montana Farm Bureau Federation  
Carol Lambert, WIFE  
Bob Stevens, Montana Grain Growers Association,  
Montana Stock Growers Association  
Pam Langley, Montana Agro Business Association

**Opponents:** None

**Informational Witnesses:** Bob Turner, Fuel Tax Management  
Analysis Bureau

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 0.7}*

SENATOR RIC HOLDEN, SD 1, stated that this is not a new issue. It is the last phase of this discussion. Farmers and ranchers that use fuel off the roads receive back a fuel tax refund. Over the last four years they have tried to determine the formula and who would qualify, et cetera. Last session this committee approved a bill that deals with the refund process and they all agreed and Governor Racicot appointed an interim committee to study what was done last session to make sure that the process worked. The process was found to work fine. There was a sunset provision on that bill; this bill is to remove that sunset provision. He passed out supplemental information.

**EXHIBIT**(agh47a01) **EXHIBIT**(agh47a02)

**Proponents' Testimony:**

*{Tape : 1; Side : A; Approx. Time Counter : 5.1}*

Lorna Karn, Montana Farm Bureau Federation, supports this bill.

Carol Lambert, WIFE, supports this bill. Agriculture uses a terrific amount of fuel and it is essential that they get a refund from that and to remove the sunset provision is a good move.

Bob Stevens, Montana Grain Growers Association, Montana Stock Growers Association, supports SB 115.

Pam Langley, Montana Agro Business Association, supports this legislation.

**Informational Testimony:**

**Bob Turner, Fuel Tax Management Analysis Bureau**, said that he had worked on both this and the bill that was passed last session. This does a little more than extend the slide and scale. When someone determines the ratio it will now be to gross income, whereas before it was net income. A farmer or rancher can have a gross income and a net loss. This is a vast improvement. It also provides for the three year look back rule. This means that they can use the highest ratio in the last three years. This would provide for the volatile nature of the market.

**Closing by Sponsor:**

**SENATOR HOLDEN** thanked the committee for a good hearing.

**REP. HEDGES** will carry this bill into the House.

**HEARING ON SB 143**

**Sponsor:** Senator Pete Ekegren, SD 44

**Proponents:** Ralph Peck, Montana Department of Agriculture  
Bob Stephens, Montana Grain Growers  
Pam Langley, Montana Agro Business Association  
Carol Lambert, WIFE

**Opponents:** None

**Opening Statement by Sponsor:**

**Senator Pete Ekegren, SD 44**, stated that he was carrying this bill for the State Ag Department. It is a simple and fair bill providing for fee increases. The Department of Agriculture is primarily funded by fees. Many programs have operated at the same fee level for the last ten years. It is time to face reality and inflation and increase the fees.

**Proponents' Testimony:**

**Ralph Peck, Montana Department of Agriculture**, submitted written testimony. **EXHIBIT** (agh47a03)

**Bob Stephens, Montana Grain Growers**, stated that in the long run, the farmer pays the bills anyway.

**Pam Langley, Montana Agro Business Association**, submitted written testimony and supplemental information. **EXHIBIT (agh47a04)**  
**EXHIBIT (agh47a05)**

**Carol Lambert, WIFE**, reluctantly supports this bill. Agriculture is the number one product in Montana and therefore they support the Department of Agriculture. They think that the funding should come out of the general fund, but since it doesn't, they support this bill.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : A; Approx. Time Counter : 30.1}***

**REPRESENTATIVE LARRY LEHMAN** asked about the first two assumptions on the fiscal note. Is the increase enough to offset the loss of the registrations? **Mr. Peck** said that when they put the analysis together, trying to look at the fee amount they would need to generate, they were hoping to be able to operate for six years before they would have to look at the fees again. As they did that, they made the assumptions. However, they anticipate that they will be back in two or four years to ask for more money.

**REP. LEHMAN** said that Ms. Langley had indicated that only 7% of the general fund is going toward agriculture, is that right?

**Ms. Langley** said that was not exactly right. 7% of the Department of Agriculture's budget comes from the general fund.

**REP. LEHMAN** asked if anyone knows an amount that the agricultural industry actually contributes to the general fund. **Ms. Langley** did not know. The special revenue fees going into the Department of Agriculture are \$7,451,196.

**REPRESENTATIVE KARL WAITSCHIES** asked for the uses of the groundwater account. **Mr. Peck** said that the groundwater account is to look at the impacts of ag chemicals in the groundwater in Montana. He gave some examples dealing with drilling monitoring wells. **REP. WAITSCHIES** asked, since it is for the public good, why are you taking out of the ag budget and producers to do this? Shouldn't it come out of DEQ? **Mr. Peck** said that it was placed in his department because the ag industry felt that they would like the ag department to provide that function. They do coordinate with the DEQ in regards to the standards and the work activities. He stated that the Agriculture Department is self supporting by fees and they track every dollar to make sure that the money is spent where it is supposed to go. **REP. WAITSCHIES** asked what would be cut if they don't approve these fees.

**Mr. Peck** said that they had looked at that and they would have to go back and look at all the parts of the program because they can't move fees from another program to fund this program. Based

on initial analysis they will cut the ag chemical groundwater by 50% and reduce inspection services across the state, eliminate one field inspector and eliminate some training.

**REPRESENTATIVE LINDA HOLDEN** had a question on the chart that Ms. Langley handed out. How does Wyoming fund their department?

**Ms. Langley** said that they are funding theirs from the general fund. **REP. HOLDEN** asked how the industry feels, considering that Montana has a reputation for not being business friendly.

**Ms. Langley** said that we are higher than almost every state around us. We send somewhat of a negative message, but the people affected have indicated that they will pay, as long as what is being paid goes for pesticide regulation. **REP. HOLDEN** asked, if the fees are raised, would we lose more than we gain.

**Ms. Langley** said that she thinks that we are okay, although we might begin to lose some of the low use products.

**REPRESENTATIVE CHRISTOPHER HARRIS** asked if Ms. Langley agreed with the fiscal note assumption that 10% of the registration will be lost. **Ms. Langley** said that those figures were developed in the ag science division in the department. Under the FFQPA we are losing products because of rereview by EPA, they are simply not reregistering them.

**REP. HARRIS** asked if Mr. Peck agreed with the 10% assumption.

**Mr. Peck** said that they had spent a great deal of time trying to come up with that number. They think that the impact will be more consolidations of the companies versus the dollar amount of registration fee, but it is an unknown. **REP. HARRIS** asked if they gave any consideration to just coming even with North Dakota at \$175 fee. **Mr. Peck** said that they did analyze where the other states are at and they tried to round them to even \$5 numbers. They were hoping to maintain this fee for several years, where North Dakota will likely raise theirs in the next few years.

**REPRESENTATIVE DON HEDGES** stated that during testimony Mr. Peck had mentioned that they planned to review and do a financial analysis of the fees collected under this program. Is that in statute or is that a political promise? **Mr. Peck** said that it is a political promise to the legislature and the citizens of Montana and the industry that he serves. **REP. HEDGES** asked if there was a target date for that study. Mr. Peck said that it would be an ongoing process as they complete that with each group. The results will be available prior to next session.

**REPRESENTATIVE JIM KEANE** asked if the groundwater program would provide protection for the agricultural industry. **Mr. Peck** said that the groundwater program was not only for protection for the agricultural industry, but also for Montana's natural resources.

**REP. KEANE** asked Ms. Langley if the pesticide program protects those applying the pesticides. **Ms. Langley** said that it is the process under which the applicators are registered. **REP. KEANE** asked how the applicators get trained so that they work safely and where the money comes from to do that. **Ms. Langley** replied that the applicator fees that are paid in go to providing education and training on the grower level. **REP. KEANE** asked, if they don't fund this, would that be eliminating the hands-on training. **Ms. Langley** didn't think so because the funding for that is coming through the licensing fees paid by the commercial, government and private applicators.

**REP. KEANE** then asked the same question of Mr. Peck. **Mr. Peck** replied that as a department they would try to prioritize every function that they do. It would have an impact, which mean less access to the training because they would have less money to do it. It is one of the aspects that they would have to look at. There would probably be larger classes occurring less often.

**Closing by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 1.9}***

**Senator Ekegren** said that the Senate passed this bill 50 to 0.

**REP. KEANE** will carry this bill.

**HEARING ON SB 165**

**Sponsor:** Senator Mack Cole, SD 4

**Proponents:** Ralph Peck, Department of Agriculture  
Lorna Karn, Montana Farm Bureau  
Bob Stephens, Montana Grain Growers Association,  
Montana Agro Business Association

**Opponents:**

**Opening Statement by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 4.8}***

**Senator Mack Cole, SD 4,** said that this is not a large bill, but it is a very important bill. The purpose of this bill is to amend sections in the Montana Growth to Agriculture. Following the final report of the vision 2005 task force on agriculture and the May special session of the legislature, increased funding was

provided for the Montana Growth Through Agriculture Program. These increased funds were to utilized for agricultural industry and economic development. This increased the need for clarification of the MGTA.

**Proponents' Testimony:**

***{Tape : 1; Side : B; Approx. Time Counter : 6.6}***

**Ralph Peck, Department of Agriculture**, submitted written testimony. **EXHIBIT** (agh47a06)

**Lorna Karn, Montana Farm Bureau**, feels that this bill is needed. It clarifies the bill and streamlines the Growth Through Agriculture Act. They feel that this is a good piece of legislation.

**Bob Stephens, Montana Grain Growers Association, Montana Agro Business Association**, supports the bill.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : B; Approx. Time Counter : 14.6}***

**REPRESENTATIVE CHRISTOPHER HARRIS** said that Mr. Peck had indicated the research and commercialization expendable trust takes care of all this. He is wondering if that funding mechanism is in place for the research that would otherwise be covered by this act. **Mr. Peck** replied that they believe they have more ability to address some of the issues that are before them with passage of the amendment which allows the agricultural portion of that commission to be defined in regard to match dollars. In the past they had been able to do some investments, but they had to be tied to marketing because they had to get the 2 ½ return. He feels that they can work with the Department of Commerce and do some great things. **REP. HARRIS** asked, if the legislature kept this provision as it now stands and eliminated the 2 ½ times return requirement, what would be the department's reaction to that. **Mr. Peck** said that they would listen to the guidance of the legislature. He does encourage the council members to work very closely with research and commercialization. It is just where you want to set priorities.

**REPRESENTATIVE LINDA HOLDEN** asked Mr. Peck for background on the Montana Growth Act. **Mr. Peck** said that the act passed in 1987, and it was placed in the Department of Commerce. It moved to the Department of Agriculture in 1989. He gave an example of a firm in Whitefish, Montana, which they invested in. The firm was called Positive Systems, a start-up company, it was a computer

technology for sensors where you would fly over and it would tell you the crop, what growth stage it was in, whether it was stressed, et cetera. They now employ 20-some employees and work all over the world.

**Closing by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 25.4}***

**Senator Cole** said that this passed the Senate 48 to 0.

**Rep. Devlin** will carry the bill.

**HEARING ON SB 55**

**Sponsor:** Senator Mack Cole, SD 4

**Proponents:** Ralph Peck, Department of Agriculture  
Bob Stephens, Montana Grain Growers  
Lorna Karn, Montana Farm Bureau  
Pam Langley, Montana Grain Elevators Association

**Opponents:** None

**Opening Statement by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 26.2}***

**Senator Mack Cole, SD 4**, stated that SB 55 is a little different. In his area there is a lot of alfalfa seed grown. This company was doing very good and then suddenly it wasn't doing good and they filed for bankruptcy. Because of the nature of how they were working with producers, there was a question of whether the seed had ever been transferred to the producer and there was over one million dollars owed to producers. This bill takes into effect where there are other crops where the seed is kept and the crop is sold back to the company. This bill clarifies the bonding and that you could collect in the bond. It will help to protect the producer. There is an amendment.

**Proponents' Testimony:**

***{Tape : 1; Side : B; Approx. Time Counter : 28.6}***

**Ralph Peck, Department of Agriculture**, submitted written testimony. **EXHIBIT** (agh47a07)



**Bob Stephens, Montana Grain Growers**, supports this bill.

**Lorna Karn, Montana Farm Bureau**, supports this bill. You can think of this bill as insurance for the farmers.

**Pam Langley, Montana Grain Elevators Association**, stated that bankruptcies don't occur very often. It doesn't just handle a situation that happened in the past. It is needed because we are going to see more of this where the seed is not purchased by the grower.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : B; Approx. Time Counter : 34.9}***

**REPRESENTATIVE FRANK SMITH** asked how high will the Department of Ag have to raise this bond. **Mr. Peck** said that the bonding requirement is based on the financial statement based on the volume of business that they do in Montana. **REP. SMITH** then asked if this is based a little on the one that was passed in Nebraska. **Mr. Peck** said that this bill has been in place in Montana for years. Some other states bond a lot higher amount.

**REPRESENTATIVE LARRY LEHMAN** asked if the bond follows if one of these small seed companies was taken over by a larger company. **Mr. Peck** replied that that is one of the issues that they look at. The bond covers three years. They monitor these companies to avoid this happening. Smaller firms go out of business more often.

**REPRESENTATIVE CHRISTOPHER HARRIS** asked about the penalty provision. This is the only criminal provision that he is aware of that makes it a crime to fail to pay the amount due, even in the absence of fraud. Has this provision ever been prosecuted and is it needed? **Mr. Peck** said that they have, in fact, negotiated with attorneys due to the felony provision, but not actually prosecuted it. He believes it is important in regard to some cases that they have had to deal with. They would prefer to keep it as a tool. **REP. HARRIS** said that it is unconnected to any criminal intent standard and it looks like someone who had legitimately declared bankruptcy would technically be guilty of a felony here. **Mr. Peck** deferred that to his attorney. **Mr. Kim Meloy, attorney**, said that it would be up to the county attorney to whom this was referred to determine if the conduct met the definition of what constitutes a felony. There would have to be some sort of intent. **REP. HARRIS** thought that it needs to be clarified. **Mr. Meloy** said that they have rarely used it and, when they have, it has been more of presenting the availability

of felony prosecution to whomever they felt should be paying some money back and that usually solves the problem.

**Closing by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 47.6}***

**Senator Cole** commented that this is something that we will see more of in the future. It will protect the growers and help the producers. It passed the Senate unanimously.

**Rep. Bales** will carry the bill.

**ADJOURNMENT**

Adjournment: 5:00 P.M.

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REP. DONALD L. HEDGES, Chairman

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ROBYN LUND, Secretary

DH/RL

**EXHIBIT** (agh47aad)